



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

VALLEY VIEW SURGERY CENTER
5744 LBJ FRWY SUITE 200
DALLAS TX 75240

Respondent Name

ARCH INSURANCE CO

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-10-0760-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "We are disputing the allowed amounts of both surgical procedures, the non-payment of the Implant charge and the amount allowed as interest on the surgical implant charge. We requested separate payment for our implants. So the surgical procedures should have been paid at 153% of CMS. According to Texas Workers Compensation Rule 134.402, 'Implantable devices are reimbursed at the providers cost plus 10% up to \$1000.00 per item or \$2,000.00 per case.' In this case our cost was \$3,404.00 for the implanted items and 10% equals \$340.40. The total allowed amount for the implant charge should be \$3,744.40. Invoice, cost certification document, and documentation from the Texas Department of Insurance that corroborates what is stated in this appeal is true is attached. The following is a breakdown of how this claim should have processed..."

CPT 20690 allows \$1,776.27 (pays at 100%)

CPT 29880 allows \$1,664.38 (pays at 50%) = \$832.19

CPT L8699 allows \$3404.00 (our cost) + \$340.40 (10% interest) = \$3,744.40

Claim Allowed Total = \$6,352.86

Less Payment Made of \$5,469.45 = \$883.41."

Amount in Dispute: \$883.41

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary dated October 19, 2009: "The Texas Labor Code requires reimbursement for all medical expenses to be fair and reasonable and be designed to ensure the quality of medical care and to achieve effective medical cost control...The carrier asserts that it has paid according to applicable fee guidelines and/or reduced to fair and reasonable. Further, the carrier challenges whether the charges are consistent with applicable fee guidelines. Please see attached EOBs."

Respondent's Supplemental Position Summary dated November 4, 2009: "I have re-reviewed this bill for the disputed implanted items. The charges for \$3404.00 (L8699) are for pins and an external fixator. It appears the pins are implanted items, and we have recommended allowance for these items. No state specific guidelines for TX, implants allowed at cost + 10% per GB guidelines. Per TX guidelines, when facility requests separate allowance for implantables, implants allowed at Cost \$168.00 (two pins at \$84.00 each) plus 10% (\$16.80) = \$184.80. External fixator is not documented as implanted item. No additional allowance."

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 29, 2009	ASC Services for code 20690	-\$951.98	-\$952.00
	ASC Services for code 26567	-\$1724.21	-\$1724.22
	HCPCS code L8699	\$3,559.60	\$3,559.60
TOTAL		\$883.41	\$883.38

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.402, titled *Ambulatory Surgical Center Fee Guideline*, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
1. Texas Labor Code Ann. §413.011(d-3) states the division may request copies of each contract and that the insurance carrier may be required to pay fees in accordance with the division's fee guidelines if the contract is not provided in a timely manner to the division.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated August 3, 2009

- W1-Workers Compensation state fee schedule adjustment.

Explanation of benefits dated September 22, 2009

- W1-Workers Compensation state fee schedule adjustment.
- W1-This line was included in the reconsideration of this previously reviewed bill.
- BL-This bill is a reconsideration of a previously reviewed bill.
- BL-Additional allowance is not recommended as this claim was paid in accordance with state guidelines, usual/customary policies or thi. [sic]
- BL-to avoid duplicate bill denial, for all recon/adjustments/additional pymnt requests, submit a copy of this EOR or clear notation that.

Issues

1. Did the requestor support position that separate reimbursement for implantables was requested?
2. Did the requestor support position that the respondent did not pay the ASC services for code 20690 in accordance with 28 Texas Administrative Code §134.402? Is the requestor entitled to reimbursement?
3. Did the requestor support position that the respondent did not pay the ASC services for code 26567 in accordance with 28 Texas Administrative Code §134.402? Is the requestor entitled to reimbursement?
4. Did the requestor support position that the respondent did not pay HCPCS code L8699 in accordance with 28 Texas Administrative Code §134.402? Is the requestor entitled to reimbursement?
5. What is the total reimbursement due the requestor for HCPCS codes 20690, 26567 and L8699?

Findings

1. The requestor states in the position summary that "We requested separate payment for our implants. So the surgical procedures should have been paid at 153% of CMS."

The Division finds that on the submitted CMS-1500s the requestor indicated in Box # 19 "SEPARATE PAYMENT FOR IMPLANT EXPECTED"; therefore, reimbursement for the ASC services is subject to 28 Texas Administrative Code §134.402(f)(1)(B).

2. 28 Texas Administrative Code §134.402(f)(1)(B) states “The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: (B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive procedure shall be the sum of: (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and (ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent.”

HCPCS code 20690 is defined as “Application of a uniplane (pins or wires in 1 plane), unilateral, external fixation system.”

28 Texas Administrative Code §134.402(f)(1)(B) reimbursement for non-device intensive procedure for HCPCS code 20690 is:

The Medicare ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures.

The ASC fully implemented relative payment weight for CY 2009 = 28.1246.

This number is multiplied by the 2009 Medicare ASC conversion factor of $28.1246 \times \$41.393 = \$1,164.16$.

The Medicare fully implemented ASC reimbursement rate is divided by 2 = $\$582.08$ ($\$1,164.16/2$).

This number X City Conversion Factor/CMS Wage Index for Dallas, Texas is $\$582.08 \times 0.9945 = \578.87 .

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement $\$582.08 + \$578.87 = \$1,160.95$.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment $\$1,160.95 \times 153\% = \$1,776.25$.

The MAR for HCPCS code 20690 is \$1,776.25. The insurance carrier paid \$2,728.25. The difference between amount due and paid equals an overpayment of \$952.00.

3. HCPCS code 26567 is defined as “Osteotomy; phalanx of finger, each.”

28 Texas Administrative Code §134.402(f)(1)(B) reimbursement for non-device intensive procedure for HCPCS code 26567 is:

The Medicare ASC reimbursement rate is found in the Addendum AA ASC Covered Surgical Procedures.

The ASC fully implemented relative payment weight for CY 2009 = 26.353.

This number is multiplied by the 2009 Medicare ASC conversion factor of $26.353 \times \$41.393 = \$1,090.82$.

The Medicare fully implemented ASC reimbursement rate is divided by 2 = $\$545.41$ ($\$1,090.82/2$).

This number X City Conversion Factor/CMS Wage Index for Dallas, Texas is $\$545.41 \times 0.9945 = \542.41 .

The geographical adjusted ASC rate is obtained by adding half of the national reimbursement and wage adjusted reimbursement $\$545.41 + \$542.41 = \$1,087.82$.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment $\$1,087.82 \times 153\% = \$1,664.36$.

HCPCS code 26567 is subject to multiple procedure rule discounting; therefore, $\$1,664.36 \times 50\% = \832.18 .

The MAR for HCPCS code 26567 is \$832.18. The insurance carrier paid \$2,556.40. The difference between amount due and paid equals an overpayment of \$1,724.22.

4. HCPCS code L8699 is defined as “Prosthetic implant, not otherwise specified.”

The respondent states in the supplemental position summary that “I have re-reviewed this bill for the disputed implanted items. The charges for \$3404.00 (L8699) are for pins and an external fixator. It appears the pins are implanted items, and we have recommended allowance for these items. No state specific guidelines for TX, implants allowed at cost + 10% per GB guidelines. Per TX guidelines, when facility requests separate allowance for implantables, implants allowed at Cost \$168.00 (two pins at \$84.00 each) plus 10% (\$16.80) = \$184.80. External fixator is not documented as implanted item. No additional allowance.”

28 Texas Administrative Code §134.402(b)(5) states “‘Implantable’ means an object or device that is surgically:

(A) implanted,

(B) embedded,

(C) inserted,

(D) or otherwise applied, and

(E) related equipment necessary to operate, program, and recharge the implantable.”

A review of the submitted operative report indicates that “A K-wire was driven across the distal portion of the proximal phalanx, proximal portion of the middle phalanx to identify the alignment. Two pins were then hand driven across these two bones. Once this was in proper alignment and the external fixation device was applied...” ‘

The Division finds that the requestor’s documentation supports that the disputed services billed under HCPCS code L8699 meet the definition of 28 Texas Administrative Code §134.402(b)(5). Reimbursement is recommended per 28 Texas Administrative Code §134.402(f)(1)(B)(i).

28 Texas Administrative Code §134.402(f)(1)(B)(i) states “ the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission.”

The requestor submitted a Stryker invoice that supports the following:

COST	COST PLUS 10%	MAR
\$3,236.00	\$3,236.00 + \$323.60	\$3,559.60
\$84.00 per pin X 2 = \$168.00	\$168.00 + \$16.80	\$184.80
TOTAL		\$3,744.40

The MAR for HCPCS code L8699 is \$3,744.40. The respondent paid \$184.80. The difference between the MAR and amount paid is \$3,559.60. This amount is recommended for reimbursement for HCPCS code L8699.

5. The Division finds that the requestor has supported position that the respondent issued an overpayment for HCPCS codes 20690 and 26567 of \$2,676.22 (\$952.00 + \$1,724.22), and an underpayment of \$3,559.60 for HCPCS code L8699, resulting in a recommended allowance of \$883.38.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, the Division concludes that the requestor supported its position that additional reimbursement is due. As a result, the amount ordered is \$883.38.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of \$883.38 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

2/2/2012

Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.